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**CLERK US BANKRUPTCY COURT
DISTRICT OF OREGON**

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Attorneys for Tort Claimants Committee

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

ROMAN CATHOLIC ARCHBISHOP OF
PORTLAND IN OREGON, AND SUCCESSORS, A
CORPORATION SOLE, DBA THE ARCHDIOCESE
OF PORTLAND IN OREGON,

Debtor.

Case No. 04-37154-elp11

TORT CLAIMANTS COMMITTEE,

Adv. Proc. No. 04-03292-elp

Plaintiff,

**TORT CLAIMANTS
COMMITTEE'S RESTATED
SECOND MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

V.

ROMAN CATHOLIC ARCHBISHOP OF
PORTLAND IN OREGON, AND SUCCESSORS, A
CORPORATION SOLE, dba THE ARCHDIOCESE
OF PORTLAND IN OREGON; JOHN RICKMAN,
GLENN PELIKAN and JOHNSTON MITCHELL,
individually and on behalf of all others similarly
situated; ST. ANDREWS CHURCH (PORTLAND),
as represented by its pastor, REV. CHARLES
LIENERT, ST. ANTHONY CHURCH (TIGARD), as
represented by its pastor, REV. LESLIE M. SIEG, and
ST. JUAN DIEGO CHURCH, as represented by its

Page 1 of 3 - TORT CLAIMANTS COMMITTEE'S RESTATED SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT

1 pastor, REV. JOHN KERNS, individually and on)
2 behalf of all parishes; COMMITTEE OF CATHOLIC)
3 PARISHES, PARISHIONERS AND INTERESTED)
4 PARTIES; CENTRAL CATHOLIC HIGH SCHOOL)
5 PARENTS' ASSOCIATION; CENTRAL CATHOLIC)
6 HIGH SCHOOL ALUMNI ASSOCIATION;)
7 PHOEBE JOAN O'NEILL; MARIST HIGH SCHOOL)
8 PARENTS AND ALUMNI SERVICE CLUB;)
9 FRIENDS OF REGIS HIGH SCHOOL; MARIST)
10 HIGH SCHOOL FOUNDATION, an Oregon non-)
11 profit corporation; CATHOLIC YOUTH)
12 ORGANIZATION/CAMP HOWARD, an Oregon)
13 non-profit corporation; the ST. ELIZABETH PARISH)
14 OF PORTLAND, OREGON, an Oregon non-profit)
15 corporation; THE MISSIONARIES OF THE HOLY)
16 SPIRIT, a California corporation; REGIS)
17 ASSOCIATION; REGIS HIGH SCHOOL)
18 FOUNDATION, an Oregon non-profit corporation,)
19)
20 Defendants.)
21)
22)
23)
24)
25)
26)

Pursuant to Bankruptcy Rule 7056 and Federal Rule of Civil Procedure 56,
the Tort Claimants Committee moves for an order granting it partial summary judgment as
follows:

1. Dismissing Debtor's Third Affirmative Defense (Lack of Subject
Matter Jurisdiction) and any similar affirmative defense alleged in response to the First
Amended Complaint;

2. Dismissing Debtor's Fifth Affirmative Defense (Religious Freedom)
and any similar affirmative defense alleged in response to the First Amended Complaint;

3. Dismissing Central Catholic High School Alumni and Parents
Association's Third Affirmative Defense (Religious Freedom) and any similar affirmative
defense alleged in response to the First Amended Complaint.

4. Declaring that Debtor's parishes and schools have no legal existence
separate from or independent of Debtor and do not have the capacity to sue or be sued.

This motion is supported by the Tort Claimants Committee's Memorandum in
Support of Second Motion for Partial Summary Judgment, the Tort Claimants Committee's

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PARTIAL SUMMARY JUDGMENT**

1 Amended Concise Statement of Material Facts, the Declaration of Timothy J. Conway in
2 Support of Tort Claimants Committee's Second Motion for Partial Summary Judgment, the
3 Tort Claimants Committee's Appendix in Support of Second Motion for Partial Summary
4 Judgment, the Affidavit of Malcolm Newkirk in Support of Tort Claimants Committee's
5 Motion for Partial Summary Judgment, and the Affidavit of Patricia L. Miller in Support of
6 Tort Claimants Committee's Motion for Partial Summary Judgment.

7 DATED this 27th day of July, 2005.

8 TONKON TORP LLP

9 By 
10 ALBERT N. KENNEDY, OSB No. 82142
11 TIMOTHY J. CONWAY, OSB No. 85175
12 Attorneys for Tort Claimants Committee

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**Page 3 of 3 - TORT CLAIMANTS COMMITTEE'S RESTATED SECOND MOTION FOR
PARTIAL SUMMARY JUDGMENT**

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **TORT CLAIMANTS COMMITTEE'S RESTATED SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT** on:

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Attorneys for ACE Property & Casualty Company, fka CIGNA Property & Casualty Company, fka Aetna Insurance Company

1 mailing a copy thereof in a sealed, first-class postage prepaid envelope,
2 addressed to each party's last-known address and depositing in the U.S. mail at Portland,
Oregon on the date set forth below;

3 causing a copy thereof to be hand-delivered to each party at each party's
4 last-known address on the date set forth below;

5 sending a copy thereof via overnight courier in a sealed, prepaid envelope,
6 addressed to each party's last-known address on the date set forth below;

7 faxing a copy thereof to each party at such party's last-known facsimile
number on the date set forth below; or

8 e-mailing a copy thereof to each party at such party's last-known e-mail
address on the date set forth below.

9
10 DATED this 27th day of July, 2005.

11 TONKON TORP LLP

12 By 
13 ALBERT N. KENNEDY, OSB No. 82142
14 TIMOTHY J. CONWAY, OSB No. 85175
15 Attorneys for Tort Claimants Committee

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